

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ROBERT J. PATTERSON, TERRI LO SASSO,  
AND RALPH A. COLO,

Plaintiffs,

-against-

MORGAN STANLEY, MORGAN STANLEY  
DOMESTIC HOLDINGS, INC., MORGAN  
STANLEY & CO., LLC, THE MORGAN  
STANLEY RETIREMENT PLAN  
INVESTMENT COMMITTEE, AND  
JOHN DOES 1-30,

Defendants.  
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16 **CIVIL** 6568 (RJS)

**JUDGMENT**

It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Opinion and Order dated October 7, 2019, contrary to Plaintiffs' claims, ERISA does not require clairvoyance on the part of plan fiduciaries, nor does it countenance opportunistic Monday-morning quarter-backing on the part of lawyers and plan participants who, with the benefit of hindsight, have zeroed in on the underperformance of certain investment options. More is required, and Plaintiffs come nowhere close to alleging such a case in their Complaint. Accordingly, because Plaintiffs lack standing as to the Non-Selected Funds, and because their Second Amended Complaint fails to state a claim under ERISA as to the Selected Funds, Defendants' motion to dismiss is GRANTED; accordingly, the case is closed.

**Dated:** New York, New York  
October 7, 2019

**RUBY J. KRAJICK**

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Clerk of Court

BY:

*\*mango*  
\_\_\_\_\_  
Deputy Clerk